

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRUCE MURRAY,

Plaintiff,

v.

UNITED STATES POSTAL SERVICE,

Defendant.

Case No. 1:19-cv-29

MEMORANDUM ORDER

In this *pro se* civil action, Plaintiff Bruce Murray, a prisoner currently incarcerated at the State Correctional Institute in Mahanoy, has sued the United States Postal Service (“USPS”) for alleged negligence and theft relative to two items that Plaintiff attempted to send through the U.S. mail. The items in question – a watch and a money order in the amount of \$56.00 – were allegedly sent to the wrong address by USPS and were ultimately lost.

On February 7, 2019, USPS removed the case from the Forest County Court of Common Pleas, where it was filed, to this Court. ECF No. 1. The matter was then referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation (“R&R”) in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and the Local Rules for Magistrates. ECF No. 2.

On March 7, 2019, USPS moved to dismiss the complaint for lack of subject matter jurisdiction. ECF Nos. 10 and 11. Plaintiff filed his response to the motion in April 2019. ECF No. 16.

On September 23, 2019, Judge Lanzillo issued an R&R recommending that USPS’s motion be granted and the complaint be dismissed with prejudice. ECF No. [21]. The

Magistrate Judge opined that Plaintiff's claims are barred by the doctrine of sovereign immunity and are incapable of being cured through further amendment. *Id.* at 5-7.

Plaintiff filed objections to the R&R on October 17, 2019. ECF No. 22. Therein, Plaintiff argues that this Court has admiralty jurisdiction over the instant civil action pursuant to Article III, Section 2 of the U.S. Constitution and the Suits in Admiralty Act ("SAA"), 46 U.S.C. §§30901, *et seq.*, formerly codified at 46 U.S.C. §§ 741, *et seq.*, which contains a limited waiver of sovereign immunity.¹ To that end, Plaintiff appears to be arguing that the USPS constitutes a "vessel working for the United States," such that it is subject to admiralty jurisdiction. Plaintiff cites no law in support of this novel proposition, and this Court has found none. Plaintiff's remaining objections are likewise without merit and fail to overcome the jurisdictional bar of sovereign immunity.

Accordingly, after *de novo* review of the complaint and documents in the case, together with the Report and Recommendation and Plaintiff's objections thereto, the following order is entered:

AND NOW, this 13th day of December, 2019;

IT IS ORDERED that the Defendant's Motion to Dismiss, ECF No. [10], is GRANTED, and the Complaint shall be, and hereby is, DISMISSED for lack of subject matter jurisdiction, without leave to amend.

¹ The Act provides:

In a case in which, if a vessel were privately owned or operated, or if cargo were privately owned or possessed, or if a private person or property were involved, a civil action in admiralty could be maintained, a civil action in admiralty in personam may be brought against the United States or a federally-owned corporation. . . .

46 U.S.C. §30903(a).

IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Lanzillo, issued on September 23, 2019, ECF No. [21], is adopted as the opinion of this Court.

/s/Susan Paradise Baxter

SUSAN PARADISE BAXTER
United States District Judge

cc: BRUCE MURRAY
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The Honorable Richard A. Lanzillo
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